

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONSTRUCTION INDUSTRY)	
LABORERES PENSION FUND, et al., ¹)	
)	
Plaintiffs,)	
)	
v.)	No. 4:20 CV 1435 JMB
)	
DANNA EXCAVATING, LLC,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' status update regarding the progress of the accounting of Defendant's business records and books.

On October 5, 2020, Plaintiffs filed this action under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1132. (ECF No.1) The record shows that Defendant Danna Excavating, LLC ("Defendant") was served with the summons and complaint on October 14, 2020. (ECF No. 5) Defendant has neither appeared nor filed an answer or other response to the complaint in a timely manner.

On November 6, 2020, Plaintiffs moved for entry of default judgment in the amount of \$19,662.79² against Defendant and an order compelling Defendant to submit to an accounting for

¹ Plaintiffs are Construction Industry Laborers Pension Fund, Patrick R. Pryor, Steve Schrimpf, Construction Industry Laborers Welfare Fund, and James P. Fitzgerald (collectively referred to as "Plaintiffs").

² Plaintiffs state Defendant owes Plaintiffs a total of \$12,383.33 in unpaid contributions for the period January 1, 2016, through December 31, 2018, \$2,751.45 in liquidated damages, and \$1,910.97 in interest on the unpaid contributions. They also seek attorneys' fees in the amount of \$2,427.04 and audit costs in the amount of \$190.00. (ECF No. 6)

the period of January 1, 2019, through December 22, 2020. (ECF No. 6) On November 10, 2020, the Clerk of the Court entered default judgment against Defendant. (ECF No. 11)

On December 22, 2020, the Court granted in part and denied without prejudice in part Plaintiffs' motion for default judgment because of their failure to ascertain the total amount of damages to be awarded. (ECF No. 12) The Court also ordered Plaintiffs to file within ninety days of the date of the Order a status report regarding the progress of the accounting of Defendant's business records and books.

On March 21, 2021, Plaintiffs' counsel reported that his clients no longer seek an accounting but that the clients want to file for default judgment. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs shall file, no later than May 25, 2021, appropriate motions for entry of default and for default judgment, supported by all necessary affidavits and documentation, as well as proposed orders for the Court's consideration.

IF IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this Memorandum and Order to Defendant, at the following address:

Danna Excavating, LLC
Attn: Sandra H. Danna, Registered Agent
29973 Glen Road
Wright City, MO 63390

/s/ **John M. Bodenhausen**
John M. Bodenhausen
UNITED STATES MAGISTRATE JUDGE

Dated this 14th day of April, 2021.